

REMARKS

Status of the claims:

Claims 1, 2, 11-15, 29, 30, 32, and 33 are pending and ready for further action on the merits. Reconsideration is respectfully requested in light of the following remarks.

Oath/Declaration

The Examiner has objected to the Oath/Declaration asserting that the Oath/Declaration recites a different priority document from that recited in the body of the written description. Enclosed with this response, please find an supplemental Oath/Declaration executed by the living inventors that corrects the errors that are present on the original Oath/Declaration. It is respectfully submitted that one of the inventors is deceased and thus, is unavailable to sign the supplemental Oath/Declaration. In lieu of the signature of said deceased inventor, Applicants herein submit a copy of the death certificate showing that said inventor has died.

Applicants respectfully direct the Examiner's attention to MPEP 603, which recites, in part:

When an inventor who executed the original declaration is refusing or cannot be found to execute a required supplemental declaration, the requirement for that inventor to sign the supplemental declaration may be suspended or waived in accordance with 37 CFR 1.183. All available joint inventor(s) must sign the supplemental declaration on behalf of themselves, if appropriate, and on behalf of the nonsigning inventor. See MPEP § 409.03(a).

Thus, Applicants respectfully request that the requirement for all inventors to sign the Oath/Declaration be waived under 37 C.F.R. 1.183. All of the other joint inventors have in fact signed the supplemental Oath/Declaration on behalf of themselves and on behalf of the deceased inventor.

Double Patenting

Claims 1, 2, 11-15, 29, 30, 32, and 33 are rejected for obviousness type double patenting as allegedly being unpatentable over claims 1-27 in Mjalli '801 (US Patent No. 6,613,801).

Applicants herein submit a terminal disclaimer over Mjalli '801. Applicants believe that with this terminal disclaimer that the obviousness type double patenting rejection over Mjalli '801 is obviated. Withdrawal of the rejection is warranted and respectfully requested.

Rejections under 35 U.S.C. §112, first paragraph

Claims 1, 2, 11-15, 29, 30, 32, and 33 are rejected under 35 U.S.C. §112, first paragraph as allegedly lacking description.

Applicants traverse. Applicants respectfully point out that Applicants did indeed have possession of the instantly claimed invention at the time that the application was filed. The Examiner, in the Office Action, recites:

The instant claims recite the limitation "wherein at least one of Aryl₁ and Aryl₂ is substituted with a lipophilic group of formula -Y-C₁₋₆-alkyl-NR₇R₈". However the present specification lacks description of compounds wherein Aryl₁ is substituted with Y-C₁₋₆-alkyl-NR₇, and thus, does not convey to the skilled artisan that applicant, at the time the application was filed, had possession of the claimed invention.

Applicants respectfully point out that that the claimed invention has been adequately described so that one of skill in the art would recognize that Applicants were in full possession of the claimed invention at the time of filing the application. To show that

Applicants did in fact have possession of the claimed invention, Applicants direct the Examiner's attention to page 4, paragraph [0010] wherein it is recited "wherein each of Aryl₁ and Aryl₂ are substituted by at least one lipophilic group". This passage shows that it was contemplated that both Aryl₁ and Aryl₂ were to be substituted by a lipophilic group. Applicants respectfully point out the similarities between the generic formula in paragraph [0010] and the formula in paragraph [0011], which the Examiner has acknowledged. The linking groups attached to Aryl₁ and Aryl₂ in combination with the Aryl₁ and Aryl₂ moieties are the functional equivalents of R₃ and R₄ from the generic formula (I) as appears in paragraph [0011]. At the top of page 6 (*i.e.*, lines 1-9) it is disclosed that R₃ and R₄ are optionally substituted with 1-4 substituents wherein one of the substituents is -Y-C₁₋₆-alkyl-NR₇R₈. Applicants respectfully point out that this disclosure is precisely the language that the Examiner has rejected for inadequate description. Applicants believe that this description is sufficient to show that Applicants did in fact have possession of the claimed invention at the time of filing the invention. Withdrawal of the rejection is warranted and respectfully requested.

Moreover, Applicants respectfully submit that in the response of September 20, 2004, Applicants noted that compounds 3-4, 8-9, 13-24 and 26 fall within the scope of the genus "wherein at least one of Aryl₁ and Aryl₂ is substituted with a lipophilic group of formula -Y-C₁₋₆-alkyl-NR₇R₈". Accordingly, Applicants submit that these genus of compounds adequately describes the claimed invention to show that Applicants were in full possession of the claimed invention at the time of filing the invention. For this reason also, Applicants submit that the rejection has been obviated. Withdrawal of the rejection is warranted and respectfully requested.

CONCLUSION

With the above amendments and remarks, Applicants believe that all objections and/or rejections have been obviated. Thus, each of the claims remaining in the application is in condition for immediate allowance. A passage of the instant invention to allowance is earnestly solicited.

Applicants believe that no fee is necessary, however, should a fee be deemed to be necessary, the Commissioner is hereby authorized to charge any fees required by this action or any future action to Deposit Account No. 16-1435.

Should the Examiner have any questions relating to the instant application, the Examiner is invited to telephone the undersigned at (336) 607-7486 to discuss any issues.

Respectfully submitted,

Date: 4/11/05

T. Benjamin Schroeder
T. Benjamin Schroeder (Reg. No. 50,990)

KILPATRICK STOCKTON LLP
1001 West Fourth Street
Winston-Salem, North Carolina 27101-2400
Phone: (336) 607-7486
Facsimile: (336) 607-7500

STATE OF NORTH CAROLINA

CERTIFICATION OF VITAL RECORD

COUNTY OF GUILFORD
REGISTER OF DEEDS

APPENDIX A

NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES
STATE CENTER FOR HEALTH STATISTICS - N. C. VITAL RECORDS
CERTIFICATE OF DEATH

001729

Registration District No. 04-96 Local No. _____

DECEDENT'S NAME (First, Middle, Last)

1. Kwasi Senelorm Avor

SEX

2. M

DATE OF DEATH (Month, Day, Year)

3. January 8, 2004

SOCIAL SECURITY NUMBER

4. 390-86-2842

AGE—Last Birthday (Years)

5. 51

UNDER 1 YEAR

Months Days

UNDER 1 DAY

Hours Minutes

DATE OF BIRTH (Month, Day, Year)

6. 4/21/1952

BIRTHPLACE (County and State or Foreign Country)

7. Ghana

WAS DECEDENT EVER IN U.S. ARMED FORCES? (Yes or No)

8. No

9a. PLACE OF DEATH (Check only one)

HOSPITAL: ☒ Inpatient ☐ ER/Outpatient ☐ DOAOTHER: ☐ Nursing Home ☐ Residence ☐ Other (Specify)

FACILITY NAME (If not institution, give street and number)

9b. High Point Regional Hospital

CITY, TOWN, OR LOCATION OF DEATH

9c. High Point

INSIDE CITY LIMITS? (Yes or No)

9d. Yes

COUNTY OF DEATH

9e. Guilford

MARITAL STATUS—Married, Never Married, Widowed, Divorced (Specify)

10. Married

SURVIVING SPOUSE (If wife, give maiden name)

11. Dekor Sammy

DECEDENT'S USUAL OCCUPATION (Give kind of work done during most of working life. Do not use retired)

12a. Scientist

KIND OF BUSINESS/INDUSTRY

12b. Medical

RESIDENCE—STATE

13a. NC

COUNTY

13b. Guilford

CITY, TOWN, OR LOCATION

13c. High Point

STREET AND NUMBER

13d. 4000 Clubhouse Ct. Apt 2F

INSIDE CITY LIMITS? (Yes or No)

13a. Yes

ZIP CODE

13f. 27265

Was Decedent of Hispanic Origin? (Specify Yes or No—If yes, specify Cuban, Mexican, Puerto Rican, etc.) ☐ Yes ☒ No (Specify)

14.

RACE—American Indian, Black, White, Etc. (Specify)

15. Black

DECEDENT'S EDUCATION (Specify only highest grade completed) Elementary/Secondary (0-12) College (13-17+)

16. 24

FATHER'S NAME (First, Middle, Last)

17. Michael Avor

MOTHER'S NAME (First, Middle, Maiden Surname)

18. Agnes D. Agbedzige

INFORMANT'S NAME (Type/Print)

19a. Dekor S. Avor

MAILING ADDRESS (Street and Number or Rural Route Number, City or Town, State, Zip Code)

19b. 11307 Kessler Place, Manassas, VA 20109

DATE AMENDED

19c.

Part I. Enter the diseases, injuries, or complications that caused the death. Do not enter the mode of dying, such as cardiac or respiratory arrest, shock, or heart failure. If appropriate, enter tobacco, alcohol, or drug use. List only one cause on each line. (PRINT or TYPE)

IMMEDIATE CAUSE (Final disease or condition resulting in death)

a. Cardiovascular infarction
DUE TO (OR AS A CONSEQUENCE OF):

Sequentially list conditions if any, leading to immediate cause. Enter UNDERLYING CAUSE (Disease or injury that initiated events resulting in death) LAST

b. DUE TO (OR AS A CONSEQUENCE OF):

c. DUE TO (OR AS A CONSEQUENCE OF):

d.

PART II. Other significant conditions contributing to death but not resulting in the underlying cause given in Part I, such as tobacco, alcohol, or drug use; diabetes, etc.

20a.

20b. AUTOPSY? (Yes or No) If yes, were findings considered in determining cause of death?

21a. No

21b.

Was case referred to Medical Examiner (Yes or No)?

21c. No

TIME OF DEATH

22. 2:30 P.M.

NOTICE: STATE LAW REQUIRES THAT ALL DEATHS DUE TO TRAUMA, ACCIDENT, HOMICIDE, SUICIDE, OR UNDER SUSPICIOUS, UNUSUAL, OR UNNATURAL CIRCUMSTANCES BE REPORTED TO, AND CERTIFIED BY A MEDICAL EXAMINER ON A MEDICAL EXAMINER'S CERTIFICATE OF DEATH. ANY DEATH FALLING INTO THESE CATEGORIES IS WITHIN THE MEDICAL EXAMINER'S JURISDICTION REGARDLESS OF THE LENGTH OF SURVIVAL FOLLOWING THE UNDERLYING INJURY.

SIGNATURE AND TITLE OF CERTIFIER

23a. C. Stephen Ford

DATE SIGNED (Month, Day, Year)

23b. 1/16/04

NAME AND ADDRESS OF PERSON WHO COMPLETED CAUSE OF DEATH (ITEM 20) (Type or Print)

24. C. Stephen Ford 624 Quaker Ln., High Point, NC 27262

METHOD OF DISPOSITION

☒ Burial ☐ Cremation ☐ Removal25a. ☐ Donation ☐ Other

PLACE OF DISPOSITION (Name of cemetery, crematory, or other place)

25b. Oakwood Memorial Park Cemetery

LOCATION—City or Town, State, Zip Code

25c. High Point, NC 27262

NAME AND ADDRESS OF FUNERAL HOME

26a. Cumby Family Funeral Service, 1015 Eastchester Drive, High Point, NC 27262

NAME OF FUNERAL DIRECTOR

26b. Jerry W. Hawks

LICENSE NUMBER

26c. FS292

REGISTRAR'S SIGNATURE

27. Katherine Lee Payne

DATE FILED (Month, Day, Year)

28. 1/16/04

NAME OF EMBALMER

26d. Jerry W. Hawks

LICENSE NUMBER

26e. FS292

DHHS 1872
(Revised 2/00
Review 2/02)
VITAL RECORDS

148273

I HEREBY CERTIFY THAT THIS IS A TRUE AND ACCURATE COPY WHICH APPEARS ON RECORD IN THE OFFICE OF REGISTER OF DEEDS, GUILFORD COUNTY, N. C. IN BOOK 0283 PAGE 1729. WITNESS MY HAND AND SEAL THIS 21st OF JANUARY, 2004.

KATHERINE LEE PAYNE, REGISTER OF DEEDS

BY: Douglas Conrad

ASSISTANT/DEPUTY REGISTER OF DEEDS

